L. R. A. 387. This conflict of authority is due partly to the different views which the courts entertain as to what, if any, were the rules of the common law on the subject. BREWSTER, CONVEYANCING § 113.

WILLS—PROBATE—EFFECT OF—TESTAMENTARY DOCUMENT—CODICIL—CONSTRUCTION—LIST OF NAMES AND SUMS OF MONEY—CONSTRUING AS GIFT OF LEGACIES.—Testator made his will three months before his death. A document duly executed, but containing no attestation clause, bearing date the day of his death, containing eight names with a sum of money set opposite each, but without words of gift or any other indication of intention, was allowed probate. One of the beneficiaries under the will took out summons to vary the certificate of the Master by omitting therefrom the names of these persons contained in the codicil and certified therein to be legatees. *Held,* admission to probate establishes conclusively that the document is testamentary in character. It remains for this court to construe it in order to give effect to the testator's intention. Since the document is testamentary, it must be construed as a gift to each person of the amount set opposite his or her name. *In re Barrance; Barrance* v. *Ellis* [1910] 2 Ch. 419, 79 L. J. (Ch.) 544.

The effect of the probate of an instrument as conclusive of its testamentary character is well settled though the Michigan courts do not so hold, *Smith* v. *Boyd,* 127 Mich. 417. But the court of construction may nevertheless decline to give effect to it. As early as 1788 the English Court of Chancery held, in *Gawler* v. *Standerwick,* 2 Cox 15, that though a codicil which had been executed by the executors of testator's will and others declaring their understanding of the will of the testator as indicated by him on his deathbed, was a testamentary document, since it had been proved in the Spiritual Court, yet the court could and did construe it as void. The only testamentary characteristic of the so-called codicil in the principal case is the form of its execution. The report does not state whether or not it was attached to the will or found with it after the testator's death. It was argued by counsel opposing its admission that so far as the intention of the testator appeared, the document might be a list of creditors or of debtors or a list of any other character. The court expressly overruled a decision made a short time before this one which held—and with better reason, it would seem,—that a precisely similar document was void for uncertainty. The court dismissed that case with the following remark: "With regard to the case of *In re Campsill,* I cannot discover that it is reported elsewhere than at page 548 of the Law Times Journal of April 16, 1910; and I think it must have turned on the particular circumstances of the case, and cannot have been intended to lay down any rule of general application." The American courts have gone a great way in admitting documents to probate as testamentary, but have always, it seems, required some indication in the paper itself that it was intended as testamentary. JARMAN WILLS, Ed. 6 p. 19 says: "It is sufficient that the instrument, however irregular in form or inartificial in expression, discloses the intention of the maker respecting the posthumous destination of his property." See *Sullivan's Estate,* 130 Pa. St. 342, *Byers* v. *Hoppe,* 61 Md. 206, *Cover* v. *Stem,* 67 Md. 449.